

Brent O. Hatch (5715)
Mark F. James (5295)
HATCH, JAMES & DODGE
10 West Broadway, Suite 400
Salt Lake City, Utah 84101
Telephone: (801) 363-6363
Facsimile: (801) 363-6666

Robert Silver (admitted pro hac vice)
Edward Normand (admitted pro hac vice)
BOIES, SCHILLER & FLEXNER LLP
333 Main Street
Armonk, New York 10504
Telephone: (914) 749-8200
Facsimile: (914) 749-8300

Stuart H. Singer (admitted pro hac vice)
BOIES, SCHILLER & FLEXNER LLP
401 East Las Olas Boulevard – Suite 1200
Ft. Lauderdale, Florida 33301
Telephone: (954) 356-0011
Facsimile: (954) 356-0022

Stephen N. Zack (admitted pro hac vice)
BOIES, SCHILLER & FLEXNER LLP
Bank of America Tower – Suite 2800
100 Southeast Second Street
Miami, Florida 33131
Telephone: (305) 539-8400
Facsimile: (305) 539-1307

Attorneys for The SCO Group, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH**

THE SCO GROUP, INC., Plaintiff/Counterclaim-Defendant, v. INTERNATIONAL BUSINESS MACHINES CORPORATION, Defendant/Counterclaim-Plaintiff.	SCO’S MOTION FOR <u>IN CAMERA</u> REVIEW OF ALLEGEDLY PRIVILEGED DOCUMENTS Case No. 2:03CV0294DAK Honorable Dale A. Kimball Magistrate Judge Brooke C. Wells
---	--

SCO respectfully moves this Court to compel IBM to produce in camera three documents that IBM has withdrawn based on a claim of inadvertent disclosure of attorney-client privileged material. IBM sought to withdraw the documents from their production, on the grounds of alleged attorney-client privilege, after counsel for SCO had reviewed the documents as part of its document review and, with respect to certain documents, sought to use the documents in the

course of depositions. Accordingly, counsel for SCO has had occasion to review the documents at issue. On the basis of that review and of counsel's recognizance of the documents when compiling them for purposes of destroying them in response to IBM's assertion of attorney-client privilege and in reviewing the transcripts of depositions, SCO respectfully submits that the documents are not privileged and should be produced.

This Motion is Supported by an accompany Memorandum.

DATED this 5th day of May, 2006.

Respectfully submitted,

HATCH, JAMES & DODGE, P.C.

Brent O. Hatch

Mark F. James

BOIES, SCHILLER & FLEXNER LLP

Robert Silver

Stuart H. Singer

Stephen N. Zack

Edward Normand

By /s/ Mark F. James
Counsel for The SCO Group, Inc.

Certificate of Service

Plaintiff, The SCO Group, Inc., hereby certifies that a true and correct copy of the foregoing Motion to Compel Production of Allegedly Privileged Documents was served on IBM by first-class mail on the 5th day of May, 2006:

David Marriott, Esq.
Cravath, Swaine & Moore LLP
Worldwide Plaza
825 Eighth Avenue
New York, New York 10019

Jennifer M. Daniels, Esq.
1133 Westchester Avenue
White Plains, New York 10604

Todd Shaughnessy, Esq.
Snell & Wilmer LLP
1200 Gateway Tower West
15 West South Temple
Salt Lake City, Utah 84101-1004
